

**SPECIAL EDUCATIONAL NEEDS AND  
DISABILITY (NORTHERN IRELAND) ORDER 2005**

**S.I. 2005 1117**

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**EXPLANATORY MEMORANDUM**

**COMMENTARY ON ARTICLES**

**Part Iii – Disability Discrimination in Education**

*Chapter II – Further and Higher Education Institutions*

*Article 29: Meaning of “discrimination”*

61. This Article defines discrimination. Less favourable treatment will be justified if it is necessary to maintain academic standards or other prescribed standards. It may also be justified in certain cases that can be set out in regulations.
62. Responsible bodies will not to be liable where they do not know (and could not reasonably be expected to know) of a person’s disability, both in relation to the less favourable treatment duty and the reasonable adjustment duty. Although the anticipatory nature of the latter duty means that an institution would have to consider what reasonable adjustments it might make generally; it may need to know that a particular student had a disability in order to apply the policy to him.
63. The reasonable adjustment duty under Article 30 is owed to students at large. For a student to bring an action it is necessary for them to show that the general duty was breached and that this breach was to their detriment.